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MAY 19 2008

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

MAGISTRATE CASE No:

'08 MJ 84 40

Plaintiff,

v.

Daniel HERNANDEZ-Loya

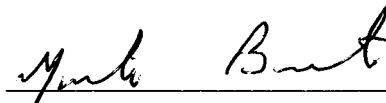
Defendant.

COMPLAINT FOR VIOLATION OF
8 U.S.C. § 1324(a)(2)(B)(iii)
Bringing In Illegal Alien
Without Presentation (Felony)

The undersigned complainant, being duly sworn, states:

That on May 15, 2008, within the Southern District of California, defendant Daniel HERNANDEZ-Loya with the intent to violate immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, Jose CEDANO-Martinez, had not received prior official authorization to come to, enter and remain in the United States, did bring to the United States said alien and upon arrival did not bring and present said alien immediately to a Customs Border Protection Officer at the designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached probable cause statement, which is incorporated herein by reference.

Gustavo Barreto, CBP
Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 19TH DAY
OF MAY 2008.


HON. PETER C. LEWIS
U.S. MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA
2 v.
3 Daniel HERNANDEZ-Loya

4 PROBABLE CAUSE STATEMENT

5
6 The complainant states that this complaint is based upon the
7 reports of the apprehending officers and the investigation
8 conducted by United States Customs & Border Protection
9 Enforcement Officer Gustavo Barreto.

10 On May 15, 2008, at approximately 08:30 P.M., (Defendant)
11 Daniel HERNANDEZ-Loya was the driver of a white 1998 Ken Worth
12 tractor when he arrived at the Calexico East Cargo Port of Entry
13 coming from the Republic of Mexico. The defendant was the only
14 visible occupant of the vehicle as he applied for entry by
15 presenting his lawfully issued Form DSP-150, Border Crossing
16 Card.

17 During primary inspection the defendant declared frozen
18 corn to Customs and Border Protection Officer C. Estrada. CBPO
19 Estrada referred the trailer to x-ray and to the dock for
20 unloading of the merchandise.

21 At the dock the defendant re-declared frozen corn to CBPO
22 Estrada. CBPO Estrada who was now assigned at the dock began
23 conducting an examination on the tractor trailer. While CBPO
24 Estrada was conducting her exam, she discovered two undocumented
25 Mexican males, later identified as Jose CEDANO-Martinez and
26 Gustavo ARAUJO-Rios. Both Males were discovered completely
27 covered with blankets in the sleeper area of the tractor
28 trailer.

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4 The defendant was placed under arrest and advised of his rights
5 per Miranda. Defendant said he understood his rights and said he
6 would answer questions without an attorney present.

7 Records show that the defendant is a native and citizen of
8 Mexico and was a holder of a Border Crossing Card, Form DSP-150.
9 Defendant stated that he was going to get paid \$300.00 per
10 person to take them to a gas station after crossing the Port of
11 Entry in Calexico, CA. Defendant stated that he was encountered
12 at a store in Mexicali, Mexico and was offered to transport two
13 undocumented aliens.

14 Jose CEDANO-Martinez (Material Witness) stated that he is a
15 citizen of Mexico with no legal documents to enter into or be in
16 the United States. Material Witness stated that he made
17 arrangements to be smuggled into the United States with an
18 unknown man. Material Witness stated he was going to pay
19 approximately \$2,000.00 and that his destination was San
20 Bernardino, CA. Material Witness admitted he had resided in the
21 United States illegally until he got deported in 1998. Material
22 Witness was able to identify the defendant from a photo line-up
23 as the person driving the tractor trailer to get them smuggled
24 into the United States.

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1 UNITED STATES OF AMERICA
 2 v.
 3 Daniel HERNANDEZ-Loya

4 Material Witness:
 5 Name

Country of Birth
 Mexico

6 Jose CEDANO-Martinez

7
 8 Further, the complainant states that he believes said alien
 9 is a citizen of a country other than the United States; that
 10 said alien has admitted that he is deportable; that his
 11 testimony is material, that it is impracticable to secure his
 12 attendance at the trial by subpoena; and he is material witness
 13 in relation to this criminal charge and should be held or
 14 admitted to bail pursuant to Title 18, United States Code,
 15 Section 3144.

16
 17 Executed on March 7, 2008, at approximately 10:00 P.M.

18 *Gustavo Barreto*
 19 Gustavo Barreto, CBP
 20 Enforcement Officer

21 On the basis of the facts presented in the probable cause
 22 statement consisting of one page, I find probable cause to
 23 believe that the defendant named in this probable cause
 24 statement committed the offense on May 15, 2008
 in the violation of Title 8, United States Code, § 1326.

25 *Anthony J. Battaglia*
 26 HON. Anthony J. Battaglia
 27 United States Magistrate Judge

5/17/08 5:40 AM
 Date and Time

28